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FEDERAL COMMUNICATIONS COMMISSION
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August 8, 2001

BY HAND DELIVERY

Blaise Scinto
Wireless Telecommunications Bureau
Policy Division
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

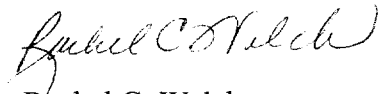
94-102

Dear Ms. Scinto:

Enclosed please find a copy of the request for waiver of the Commission's E911 Phase II location technology implementation rules filed today on behalf of Cook Inlet/VS GSM IV PCS, LLC ("CIVS IV"), CIVS IV PCS Sub I, LLC ("CIVS IV Sub I") and BCN Communications, L.L.C. ("BCN" and, together with CIVS IV and CIVS IV Sub I, the "CIVS IV Entities"). The waiver requests an extension of the waiver previously granted to VoiceStream Wireless Corporation to apply to the CIVS IV Entities and the PCS licenses held by them.

We would be pleased to schedule a meeting with you to discuss this request, the structure and ownership of the CIVS IV Entities or any other issues or concerns you may have. Please feel free to contact me directly at (202) 662-5277 at any time.

Respectfully submitted,



Rachel C. Welch
Counsel for the CIVS IV
Entities

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 8 2001

In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Revision of the Commission's Rules
To Ensure Compatibility with Enhanced
911 Emergency Calling Systems

CC Docket No. 94-102

**PETITION FOR WAIVER OF THE E911
PHASE II LOCATION TECHNOLOGY
IMPLEMENTATION RULES**

Cook Inlet/VS GSM IV PCS, LLC ("CIVS IV"), CIVS IV PCS Sub I, LLC ("CIVS IV Sub I") and BCN Communications, L.L.C. ("BCN" and, together with CIVS IV and CIVS IV Sub I, the "CIVS IV Entities"), by its attorneys, pursuant to section 1.3 of the Commission's rules, respectfully request a waiver of the E911 Phase II location accuracy and implementation deadline provisions.¹ Specifically, the CIVS IV Entities seek to extend the waiver granted to VoiceStream Wireless Corporation ("VoiceStream"), as such waiver may be updated or amended, to cover the licenses held by the CIVS IV Entities.² The CIVS IV Entities fully satisfy the good cause standard necessary to receive grant of such a waiver.³

¹ See 47 C.F.R. §§ 20.18(e), (f) and (g).

² See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, CC Docket No. 94-102 ¶¶ 51-68 (rel. Sept. 8, 2000) ("E911 Fourth MO&O") (the VoiceStream waiver is explained more fully in Section I).

³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

As way of background, the CIVS IV Entities hold licenses for Broadband PCS services in basic trading areas (“BTAs”) across the country.⁴ Currently, service is being provided in nine of these markets: Atlantic City, NJ, Market No. BTA 025, Call Sign WPOJ697; Dover, DE, Market No. BTA 116, Call Sign WPOJ698; and Philadelphia, PA, Market No. BTA 346, Call Sign WPOJ699, which became operational May 15, 2001; Harrisonburg, VA, Market No. BTA 183, Call Sign WPOJ819, the assignment of which was consummated on January 11, 2001; Brownsville-Harlingen, TX, Market No. BTA 164, Call Sign KNLF888; Eagle Pass-Del Rio, TX, Market No. BTA 121, Call Sign KNLG361; Laredo, TX, Market No. BTA 242, Call Sign KNLG749; McAllen, TX, Market No. BTA 268, Call Sign KNLG751; and Victoria TX, Market No. BTA 456, Call Sign KNLG365, the assignment of these licenses was consummated on January 22, 2001.⁵ The CIVS IV Entities have rolled out or intend to roll out GSM technology in all of their markets, including the nine already in operation.

⁴ CIVS IV holds the following PCS licenses: Harrisonburg, VA, Market No. BTA 183, Call Sign WPOJ819; Brownsville-Harlingen, TX, Market No. BTA 164, Call Sign KNLF888; Eagle Pass-Del Rio, TX, Market No. BTA 121, Call Sign KNLG361; Laredo, TX, Market No. BTA 242, Call Sign KNLG749; McAllen, TX, Market No. BTA 268, Call Sign KNLG751; Victoria TX, Market No. BTA 456, Call Sign KNLG365; Mayaguez, Puerto Rico F-block license, Market No. BTA 489, Call Sign KNLG202; and Monroe, Louisiana C-block license, Market No. BTA 304, Call Sign WPOJ808. In addition, CIVS IV is the applicant assignee of the Fort Pierce, Florida F-block license, Market No. BTA 152, Call Sign KNLG729. *See* File No. 0000441546. BCN holds the following PCS licenses: Atlantic City, NJ, Market No. BTA 025, Call Sign WPOJ697; Dover, DE, Market No. BTA 116, Call Sign WPOJ698; and Philadelphia, PA, Market No. BTA 346, Call Sign WPOJ699. CIVS IV Sub I holds the following PCS licenses: Houma, LA, Market No. BTA 195, Call Sign KNLF504; Las Vegas, NV, Market No. BTA 245, Call Sign KNLF510; Omaha, NE, Market No. BTA 320, Call Sign KNLF517; and New Orleans, LA, Market No. BTA 332, Call Sign KNLF519.

⁵ The CIVS IV entities request that Commission action regarding this waiver request apply with equal force to all the licenses held by the CIVS IV Entities, even those that are not currently fully constructed and operating. Additional systems will be brought on-line as promptly as practicable (continued...)

The licenses owned by the CIVS IV Entities are operated pursuant to a technical services agreement between CIVS IV Holdings and VoiceStream, which also is a GSM provider in all of its markets. Pursuant to that agreement, VoiceStream provides certain technical services to the CIVS IV Entities, including operational, engineering, maintenance, construction, repair and such other services as may be necessary to construct and operate the systems. As a consequence, VoiceStream provides to the CIVS IV Entities certain technical services necessary to operate a PCS system, including E911 services. Cook Inlet Region, Inc. (“CIRI”), the ultimate parent of the CIVS IV Entities and other similar licensee entities, has implemented GSM technology since CIRI began providing PCS service. Because the CIVS IV Entities and VoiceStream utilize similar network architectures in their PCS systems, the CIVS IV Entities benefit greatly from VoiceStream’s technical expertise as a GSM provider.

I. The Commission previously granted a waiver of the Phase II E911 rules to VoiceStream.

In February of 1999, Aerial Communications, Inc. (“Aerial”) filed a request for waiver to permit implementation of a handset-based location technology.⁶ Aerial’s petition was dismissed as moot by the Commission in the E911 Third Report and Order.⁷ In subsequent *ex parte* presentations Aerial renewed its request for approval to implement a hybrid Automatic Location Identification (“ALI”) approach involving both handset and software upgrades.⁸

and thus need to be covered by this waiver request in order to comply with the Commission’s rules regarding E911 services.

⁶ Aerial Communications, Inc. Petition to Waive Section 20.18(e) of the Commission’s rules (Feb. 5, 1999).

⁷ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket 94-102, Third Report and Order, 14 FCC Rcd 17388, 17429-30 (1999) (“E911 Third Report and Order”).

⁸ See E911 Fourth MO&O ¶ 52.

Aerial subsequently was acquired by VoiceStream, which continued to pursue the hybrid waiver request.⁹ Specifically, VoiceStream requested that the Commission grant it a waiver of the standard E911 requirements and allow VoiceStream to implement an ALI solution that combines a network software upgrade (“NSS”) with a handset technology called Enhanced Observed Time Difference of Arrival (“E-OTD”).¹⁰ The Commission determined that such a waiver was in the public interest because the NSS/E-OTD “may be one of the only ALI solutions available in the near term for GSM systems” and thus granted VoiceStream’s waiver request, subject to certain conditions.¹¹

II. The CIVS IV Entities meet the legal standard for waivers.

Pursuant to Section 1.3 of the Commission’s rules, the Commission can waive provisions of its rules if good cause is shown. In accordance with the good cause standard established by *WAIT Radio*, a waiver is appropriate where special circumstances warrant a deviation from the general rules and such a deviation is in the public interest.¹² The Commission already determined that VoiceStream met the requirements for a waiver of the Commission’s E911 Phase II rules. Furthermore, the Commission specifically has stated that waiver of the E911 Phase II rules may be appropriate if “technology-related issues or exceptional circumstances” make compliance with the Phase II deadline impossible to meet.¹³ Though the

⁹ *See id.* ¶ 52.

¹⁰ E-OTD requires a software upgrade to the handsets as well as associated network upgrades, but does not require hardware changes or changes to antenna structures. *See id.* ¶ 54.

¹¹ *See id.* ¶¶ 5 & 56. If the Commission deems it necessary, the CIVS IV Entities agree to be subject to all the conditions imposed on VoiceStream, including the requirement to file semi-annual reports on all trials and tests of the ALI technology and of actual operational deployment of ALI technology.

¹² *WAIT Radio* 418 F.2d at 1159.

¹³ E911 Fourth MO&O ¶ 43.

CIVS IV Entities are not requesting a new waiver of the rules, but an extension of the waiver previously granted to VoiceStream, the CIVS IV Entities fully satisfy the good cause standard and the Commission's criteria for waivers set forth in the E911 Fourth MO&O for the reasons set forth herein.

III. The CIVS IV Entities request that the Commission extend the waiver granted to VoiceStream to the CIVS IV Entities.

The extension of VoiceStream's waiver to the CIVS IV Entities is necessary to ensure that the CIVS IV Entities are able to deploy E911 services efficiently and effectively. VoiceStream has made extensive preparations to deploy Phase II location technology on a nationwide basis, including to markets licensed to the CIVS IV Entities and for which VoiceStream provides technical services. Because the CIVS IV Entities and VoiceStream have entered into a technical services agreement whereby VoiceStream provides certain technical support necessary to operate the CIVS IV Entities' PCS systems, the CIVS IV Entities are in the same position as the VoiceStream systems with respect to the deployment of E911 services and thus, will be unable to comply with the Phase II rules unless the VoiceStream waiver is extended to cover their systems. VoiceStream has made extensive preparations to deploy Phase II technology pursuant to its waiver, which establishes deadlines and accuracy requirements different from the requirements otherwise established in the Commission's E911 rules.¹⁴

The public interest is served by extending VoiceStream's waiver to the CIVS IV Entities because, as the Commission recognized, the NSS/E-OTD technology is the only solution available for GSM systems to satisfy the Commission's accuracy rules.¹⁵ Therefore, because the

¹⁴ See *id.* ¶¶ 4-5.

¹⁵ See *id.* ¶¶ 55-60.

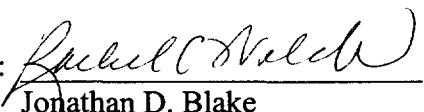
CIVS IV Entities have contracted with VoiceStream for provision of E911 services and because VoiceStream's NSS/E-OTD hybrid solution is the only solution available to GSM providers, the Commission should extend VoiceStream's waiver to the licenses held by the CIVS IV Entities.

* * * * *

Based on the foregoing, the CIVS IV Entities request that the Commission extend the waiver granted to VoiceStream to cover the licenses held by the CIVS IV Entities.

Respectfully submitted,

**Cook Inlet/VS GSM IV PCS, LLC
Cook Inlet/VS GSM IV PCS Sub I, LLC
BCN Communications, L.L.C.**

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Dated: August 8, 2001